

XI. LEAD AGENCY PROCEDURES FOR RESOLVING CHILD COMPLAINTS (34 CFR 303.510 – 303.512)

ADOPTING COMPLAINT PROCEDURES (34 CFR 303.510)

DESE has adopted written procedures for receiving and resolving any written and signed complaint that any public agency or private service provider is violating a requirement of Part C.

INFORMING PARENTS AND OTHER INTERESTED INDIVIDUALS OF COMPLAINT PROCEDURES

Parents are informed of the Missouri Part C Child Complaint Procedures several times. The Parental Rights Brochure is given to parents when referred to the program, at the point of notice and consent for evaluation (identification), and at the point of notice and consent for placement or provision of early intervention services.

Parents and other interested individuals including parent training centers, protection and advocacy agencies, independent living centers, and other appropriate entities, are informed of the complaint procedures through a variety of public awareness activities, such as presentations, videos, and print materials. Information is also disseminated through advocacy councils, and the Missouri MR/DD Planning Council.

WHO MAY FILE A COMPLAINT

Any individual or organization, including an organization or individual from another State, may file a complaint with DESE. Sources of written complaints may be parents, service providers, advocates, service coordinators, members of the SICC, and/or employees of public agencies.

Limitations: A complaint must allege a violation that occurred not more than one year before the date that the complaint is received unless a longer period is reasonable because the alleged violation continues for that child or other children, or the complainant is requesting reimbursement or corrective action for a violation that occurred not more than three years before the date on which the complaint was filed.

COMPLAINT PROCEDURES

Statement of Jurisdiction: DESE, as a grantee under Part C of the Individuals with Disabilities Education Act (IDEA) maintains procedures for receiving, investigating, and resolving complaints that statutes and/or regulations relating to Part C of IDEA have been violated. This process is administered through the Division of Special Education, and is known as the child complaint process.

Initiating a Complaint: A child complaint must be filed in writing and must:

1. State facts describing an alleged violation of the IDEA-C or federal statutes and regulations applying to programs operated pursuant to the IDEA-C.
2. State the name, address, and phone number of the complainant as well as applicable information regarding the child involved. Individuals filing a complaint are not required to cite the Part C regulation that he or she alleges has been violated.

Processing of Complaint Record: Upon receipt, the complaint shall be reviewed by the Child Complaint Coordinator and necessary staff assigned to investigate it. The complaint shall also be entered into the complaint tracking system.

Investigation of the Complaint: The process of investigation shall include: staffing the complaint, providing notice of the complaint, data collection, and on-site visits where appropriate.

1. Notice: Upon receipt of a complaint, notice shall be sent to the agency against which the complaint is filed. The notice shall include a statement of the elements of the complaint, a description of the investigation process and, if possible, the details of any on-site visits, data requests, or phone interviews that are planned. The agency shall be invited to provide any relevant information.

2. **Acknowledgement:** Upon receipt of a complaint, a written acknowledgement shall be sent to the complainant and shall include a statement of the elements of the complaint, a description of the investigation process, and an invitation to provide any relevant information that the complainant wants considered.
3. **Documentation Collection:** Documentation requests and phone interviews will be the primary methods of data collection in the complaint investigation. The request will include documents relevant to the complaint. Additionally, persons who have filed the complaint are given the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
5. **On-site visits:** If the lead agency determines that the investigation requires an on-site visit, separate notice to the agency shall be given. This notice may be given by phone, or may be in writing. The notice shall include a statement of the records to be made available, staff to be interviewed, and any need for access to school or agency facilities.

Investigation Time Lines: The Division of Special Education shall have, upon receipt of the complaint, sixty (60) calendar days to review all relevant information and issue a letter of findings whether the public or private agency is violating a requirement of Part C the regulations. The Commissioner of Education, if exceptional circumstances exist with respect to the particular complaint, may grant extension of this time limit. If such an extension is given, notice shall be given to the complainant and the agency under investigation, with documentation of that notice to be maintained within the child complaint file.

Resolution of the Complaint: Resolution of a system complaint shall be through the issuance of a decision letter of findings by the Commissioner of Education, DESE. The Decision letter shall include findings of fact and conclusions, and provide reasons for the decision. These findings address each allegation in the complaint and reviews of the investigation results, including any information in an on-site investigation or from a data request. Technical assistance is available to implement any corrective actions ordered. The basis for resolution may be any one of the following:

- A. A decision that the party is in compliance.
- B. A decision that the party is out of compliance, but that voluntary corrective action has been taken requiring no further corrective action.
- C. A decision that the party is out of compliance and ordering a specific corrective action to be completed by a certain date.

REMEDIES FOR DENIAL OF APPROPRIATE SERVICES: In resolving a complaint in which it finds a failure to provide appropriate services, a lead agency, pursuant to its general supervisory authority under Part C of the Act, must address how to remediate the denial of those services, including as appropriate, the awarding of monetary reimbursement or other corrective action appropriate to the needs of the child and the child's family and appropriate future provision of services for all infants and toddlers with disabilities and their families.

Appeal Rights: The findings of the Commissioner of Education related to the complaint shall constitute a final decision of DESE.

Complaint Filing and Due Process Hearing Requests

If a written complaint is received that is also the subject of a due process hearing under Section 303.420, or contains multiple issues, of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing. However, any issue in the complaint that is not part of the due process action must be resolved within the 60-calendar-day timeline using the complaint procedures described in this section.

If an issue is raised in a complaint that has previously been decided in a due process hearing involving the same parties, the hearing decision is binding and the State must so inform the complainant. A complaint alleging a public agency's or private service provider's failure to implement a due process decision must be resolved by the Department.